

Michelle Alexander
Vice President
malexander@iiac.ca

VIA EMAIL

Fin.Planning@ontario.ca

April 16, 2018

Re: Consultation - Regulation of Financial Planners (the “Consultation Paper”)

The Investment Industry Association of Canada (the "IIAC") appreciates the opportunity to provide input to the Ontario government regarding the regulation of financial planners in Ontario.

The IIAC is the national association representing the investment industry’s position on securities regulation, public policy and industry issues on behalf of our 123 investment dealer member firms in the Canadian securities industry that are regulated by the Investment Industry Regulatory Organization of Canada (“IIROC”). These dealer firms are the key intermediaries in Canadian capital markets, accounting for the vast majority of financial advisory services, securities trading and underwriting in public and private markets for governments and corporations.

As outlined in previous stakeholder consultations and our submissions to both the Ontario government and the Expert Committee, the IIAC supports additional clarity and standardization for the provision and supervision of financial planning in the industry. We recognize that there are many individuals who may hold themselves out as financial planners but may not have the necessary proficiency requirements and appropriate oversight.

Clarity and protection for investors being served by a wide variety of people who call themselves financial planners is welcome. It is imperative to ensure that those involved in financial planning have the necessary proficiency and meet minimum acceptable standards, thereby increasing confidence in the Canadian capital markets. This would be beneficial for all industry participants and, most importantly, for Canadian investors.

Set out below are the IIAC's response to the questions posed in the Consultation Paper:

Proposal to Restrict use of the "Financial Planner" Title in Ontario

- 1.1 What changes, if any, would you suggest to the credential recognition standards above?**
- 1.2 To what extent do specific credentials currently used in Ontario meet the credential recognition standards?**
- 1.3 What impact would the requirement to hold a recognized credential have on individuals currently operating as financial planners in Ontario?**
- 1.4 What impact would the requirement to hold a recognized credential have on internationally-trained professionals that relocate to Ontario and wish to operate as financial planners?**
- 1.5 Are there any foreign credentials that would meet the proposed credential recognition standards? If so, please also provide the name of the credentialing organization.**
- 1.6 What would constitute an appropriate transition period to allow individuals operating as financial planners in Ontario to attain a recognized credential once the proposed framework has been implemented?**
- 1.7 Do you believe that the proposed credential requirement for financial planners would benefit consumers of financial planning services? If not, how would you alter the framework to improve consumer protection?**

The IIAC supports the government's view that individuals using the title "Financial Planner" in Ontario must have the necessary training and expertise to provide financial planning services, thereby restricting the use of the title "Financial Planner" to individuals holding a recognized financial planning credential.

However, the government has failed to articulate in this Consultation Paper what the activity is they are intending to capture. The government has instead jumped ahead to restrictions on the use of the title "Financial Planner" to individuals holding a recognized financial planning credential. The IIAC has no objection with this proposal, but it fails to address the more significant issue of those who engage in financial planning activity but do not use the title of Financial Planner. It also fails to provide the necessary specificity regarding who exactly is a Financial Planner and the activities in which they engage.

As set out in our previous submissions, the IIAC recommends that the regulation of Financial Planners extend not only to those who hold themselves out and/or use the title of Financial Planner, but also to anyone who provides Comprehensive Financial Plans to clients. Such a definition would provide clarity as to who is captured and subject to regulatory oversight.

A Comprehensive Financial Plan is taken to mean a complex written plan prepared as part of an integrated financial planning process encompassing areas such as financial management, insurance, risk management, investment planning, retirement planning, tax planning, estate planning and legal aspects. Financial advisors who are not Financial Planners also provide some planning as part of the service they offer to the public, such as investment or retirement planning services. Unlike these plans, a Comprehensive Financial Plan provided by a Financial Planner or someone who holds themselves out as a planner, is a complex plan that typically includes a deep dive into areas including tax, estate and all types of insurance. Financial planners may, in certain circumstances, and based on the client's needs, provide modular plans that address some but not all of the areas of financial planning, but such plans will generally be prepared as part of a seven-step or integrated planning process.

Thus, before there is a determination of who is permitted to use the title of Financial Planner, one needs to identify who actually engages in this activity to ensure they are adequately captured in any proposed framework that is developed.

We wish to emphasize that we reserve the right to comment more fully on both the restrictions regarding the use of the Financial Planner title and the proposal to prohibit titles similar to Financial Planner, once the government provides a definition of the title. The government is correct in its statement that other titles may need to be addressed as individuals might attempt to use these similar titles to avoid the credential requirement, which would hamper consumer protection. However, focusing on titles alone without determining whether in fact an individual is providing activity that falls under a definition of financial planning, does not fully address the issue and ultimately would fail in one of the government's key objective of protecting consumers.

On the proposed standards for recognition for a credential to be recognized under the proposed framework, the IIAC generally supports those set out by the government in the Consultation Paper. However, we would encourage the government to add a requirement for all credentialed financial planners to hold Errors and Omissions ("E&O") insurance. E&O insurance will allow consumers to receive financial compensation in the event that they are harmed by the actions or negligence of their financial planner. In connection with this, the IIAC encourages the government to consider a protection or compensation fund that would allow consumers to receive financial compensation if they are harmed by the action of their financial planner.

As IIROC-regulated firms, our members have indicated that, currently, they expect their financial planners to have acceptable financial planning credentials and the IIAC looks forward to providing additional comments on recognized credentials as the proposed framework develops through future consultations.

Once clarity is achieved regarding which credentials will be recognized going forward, we will be better able to provide input with respect to the impact this may have on our members both in regards to possible grandfathering provisions and appropriate transition periods that may be necessary. However, it is likely that a two to three-year transition period would be advisable. Such a time frame would be sufficient to complete the necessary course work/examinations for various financial

planning designations. However, we would suggest that any work experience that is necessary to obtain the designation should not be required to be completed within the transition period.

Proposal to Prohibit Titles Similar to “Financial Planner”

2.1 Is the proposed list of prohibited titles appropriate? Why or why not? Would you add any titles to the list? Would you remove any titles from the list?

2.2 Is the proposed general prohibition on the use of other misleading titles appropriate?

As the IIAC outlined in its submission to the Canadian Securities Administrators (“CSA”) on its Consultation Paper 33-404 *Proposals to Enhance the Obligations of Advisers, Dealers, and Representatives Toward Their Clients*, and to the Expert Committee, the IIAC fully supports limiting the range and number of titles currently used in the industry to the extent that this in fact enhances clarity for investors. We agree on the need to diminish confusion around the role and responsibilities for investment advisors and financial planners.

The IIAC also wishes to point out IIROC Guidance Note 14-0073 *Use of Business Titles and Financial Designations*. The Guidance Note provides clarity regarding the responsibilities of firms and their registrants who deal with retail clients with respect to the use of both titles and financial designations.

The Guidance Note sets out best practices that firms should use to properly supervise the use of titles and designations. This includes the use of a pre-approval process for any title or designation. This practice is employed by all IIAC member firms today.

In addition, the Guidance Note requires that no individual representative should put him or herself out to the public in any manner that deceives or misleads, or could reasonably be expected to deceive or mislead a client or any other person as to his/her proficiency, qualifications or scope of product or service offering. This includes using designations in client-facing communications.

As the IIAC has previously stated, we support the use of the title “Financial Planner” for individuals holding a recognized financial planning credential. However, it is important to work with all regulators across Canada to develop a list of approved titles for not only financial planners but for all those engaged in the financial services industry, which will promote greater transparency for potential and existing clients, particularly more vulnerable and less sophisticated investors. This point was recently emphasized in OSC Staff Notice 11-779 *Seniors Strategy*, issued on March 20, 2018.

It is difficult for the IIAC to comment at this point on proposed list of prohibited titles for, as stated above, additional clarity needs to be given surrounding the definition of Financial Planner and what activity is intended to be captured. That would help to better inform the IIAC as to what other titles should also be prohibited.

However, given the CSA's plan to limit titles generally, the focus on the word "planner" in combination with words such as Wealth, Investment, Money, etc. may be moot if the CSA limits the number and use of the titles currently in existence.

The IIAC would suggest that in further development of the proposed framework, the government clarify that additional titles can be used in conjunction with the title of Financial Planner. That would allow individuals who hold dual or multiple functions within an organization to use employment titles in addition to the title of Financial Planner.

2.3 How should the use of the title "Financial Adviser" or "Financial Advisor" be treated under the proposed framework outlined in the paper?

Neither the title of "Financial Adviser" nor "Financial Advisor" are registration categories under securities legislation or approval categories under IIROC. However, they are established titles that are used generally in the financial services industry. Despite the differences in spelling, the IIAC believes that individuals using these titles should be licensed professionals and should be treated in the exact same manner. However, examining these two titles seems somewhat outside the scope of the government's Consultation Paper, which focuses on the regulation of financial planners in the province, so we query why this question was included.

2.4 Prohibited titles would need to be reviewed on a periodic basis to ensure the list remains current and appropriate. What would you consider to be an appropriate review period?

Any proposed list of prohibited titles would need to be subject to a regular review period to not only review whether any new titles develop that should be prohibited, but allow large organizations adequate time periods to revise and make changes to their internal systems to addresses these changes. We would suggest a regular review period of every three to five years. Of course, should a new title become widely used in advance of a regular review, there should be a mechanism in place for ad hoc reviews where necessary.

The IIAC does wish to pose the question as to what organization or body would be responsible for these regular reviews?

Proposal to Create a Central, Publicly-Accessible Database of Financial Planners

3.1 What information should be included on the central database?

3.2 Do you foresee any specific concerns with the creation or maintenance of a central database?

The IIAC supports a single, free, comprehensive central registry to provide a "one-stop" source of information for consumers. As stated in our previous submission, currently the National Registration Database (NRD) exists for all individuals or companies whose business is trading, underwriting or advising with respect to securities and who are required to register annually with one or more of the provincial securities regulators or IIROC. This also includes all advisors registered to sell mutual funds

in Canada. The IIAC would support extending this registry to all financial planners not already included in the above. While this would require some changes to the NRD, it would likely be more desirable than setting up a new and separate registry, thereby providing investors with a true one-stop window. While NRD currently limits access to the regulators and an individual's sponsoring firm, we imagine a separate access point for the public could be included.

Alternatively, IIROC's *AdvisorReport* enables investors today to research the background, qualifications and disciplinary information on advisors at IIROC-regulated firms. This could perhaps be used as a starting point and expanded to create a central database for all advisors and financial planners.

As we also outlined in our previous submission, we suggest that Ontario take the lead with its counterparts in other provinces and territories to ensure that sanctions or the expulsion of a financial planner or advisor from the industry in any one jurisdiction would automatically result in the recognition and enforcement of a similar action in all other jurisdictions of Canada.

Other Question

4.1 The government is committed to strengthening consumer protection while supporting innovation and growth in the financial services sector. In recent years, there has been rapid growth in the creation and provision of technological innovations related to financial planning. Would the proposal outlined in this consultation impact the creation or provision of these more innovative aspects or kinds of services? If so, how?

Our members were unclear as to exactly what the government was asking in this question and what it is seeking to address. Was it perhaps the development of robo-advice and how it might intersect with financial planning, especially if a robo-advisor offers financial planning.

While further specificity is requested, this question does raise the issue as to whether the government has properly given consideration to the use of technology/software in relation to providing financial plans to consumers. For example, some members mentioned Naviplan. With this technology product, one individual at a firm may use it to prepare a plan, another individual may deliver/present the plan to the client, and another (or many others) may execute on that plan with the use of investments and/or insurance products. In such a situation, it is unclear which of these individuals would be required to have the appropriate credentials and be captured under the proposed framework.

While not one of the questions posed in the Consultation Paper, the IIAC would like to stress to the need for a harmonized and national approach to any regulatory framework developed for financial planners. This is the only way that consumers can expect to receive uniform standards of service when they engage a financial planner, regardless of whether the planner offers its services through an IIROC-registered dealer, through another regulated channel or in another province.

Developing regulation solely in the province of Ontario fails to address the national scope of many of our members and the need to harmonize regulation of financial planning across all Canadian jurisdictions to

avoid fragmentation, client confusion and inefficiencies in the system. A patchwork approach to regulation where different requirements exist in different jurisdictions fails to provide the necessary level of protection that all Canadian consumers deserve.

Thank you for considering our submission. We would be more than pleased to meet with the government of Ontario to respond to any questions that you may have.

Yours sincerely,

A handwritten signature in cursive script that reads "M. Alexander".